

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**DEC 05 2005**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JESUS ERNESTO GOMEZ-TERRAZAS,

Defendant - Appellant.

No. 04-10488

D.C. No. CR-03-00479-JCM

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Nevada  
James C. Mahan, District Judge, Presiding

Submitted November 8, 2005 <sup>\*\*</sup>

Before: WALLACE, LEAVY, and BERZON, Circuit Judges.

Jesus Ernesto Gomez-Terrazas appeals the 70-month sentence imposed after his guilty-plea conviction for unlawful reentry after deportation in violation of 8 U.S.C. § 1326. Gomez-Terrazas contends, and the government concedes, that the

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

case should be remanded for re-sentencing on an open record. We agree, and remand without limitation on the evidence that the district court may consider. *See United States v. Matthews*, 278 F.3d 880, 885-86 (9th Cir. 2002) (en banc).

**REMANDED.**